

Frederick County Planning Commission

Meeting Minutes

February 24, 2010

COMMISSION MEMBERS PRESENT:

Joseph Brown
Richard Floyd
Kai Hagen, BoCC Liaison
Catherine Forrence, Chair

John McClurkin, Secretary
Audrey Wolfe
Robert White, Vice Chair

COMMISSION MEMBERS ABSENT:

PLANNING STAFF PRESENT:

Eric Soter, Director
Mark Depo, Deputy Director
Shawna, Lemonds, Planner

Michael Chomel, Sr. Asst. County Attorney
Kathy Mitchell, Asst County Attorney

1:00 P.M.

AFTERNOON SESSION

ASSISTANT CHAIR WHITE BROUGHT THE MEETING TO ORDER AT 1:05 PM.

1) PLANNING COMMISSION WORKSHOP.....DISCUSSION

a. The Frederick County Planning Commission held a workshop to discuss the development within the Agricultural (Ag) and Resource Conservation (RC) zoning districts. The primary discussion involved appropriate scale, size, and location of development and the proper uses allowed within the Ag and RC zoning as well as facilitates needed to serve such uses (roads, water, sewer, etc.). *Mark Depo & Shawna Lemonds*

Vice Chair White noted he was aware of the negative tone at the original meeting held to discuss this subject and the lack of clear understanding for the planning concepts and needed rational involved. He added that he hoped they could reach some mutually acceptable understanding.

Janet Ingram (JI) - Questioned if the BoCC was voting without a broad understanding of their proposed plans.

Commissioner Brown commented on a frustration he was aware of regarding Churches impacting people on non-Sunday and other planning-type issues that were become more important for those types of uses (off Sundays).

INTRODUCTIONS AROUND THE TABLE

Members of the Religious Group invited to attend:

- (NM) Noel Manalo – Miles & Stockbridge
- (LM) Lee Miller – Daft, McCune, Walker Civil Engineering
- (JM) Jim Mackintosh – Mackintosh Commercial & member facilities committee for the Church of the Brethren
- (JI) Janet Ingram
- (PM) Paul Munday – Senior Pastor Frederick Church of the Brethren
- (RM) Randy Goldenberg – Senior Pastor, Frederick Christian Fellowship
- Tim May (Not in Attendance)

CHAIR FORRENCE ARRIVED 1:10 PM

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Assistant Chair White introduced the handouts provided and to be used as reference in today's discussion – "Characteristics of Smart Development", "Trends, Statistics and Current Growth Patterns" and the "BoCC Draft Plan – Goals" – He indicated that this is what the States wants to be achieved in Planning's Efforts. He went on to quote from the publication.

JM – Commented that if the County was going to try to force Church to find property with W&S that has already been slated for residential growth – they will not be able to afford it. He believed in Smart Growth but that it should allow Ag to be acceptable areas for them [churches] to develop.

Commissioner Brown stated he felt that they could work together to find something that was workable/acceptable by all.

Chair Forrence noted that churches could not/should not be singled out from other private institutions to have special regulations and that they should have only one set of standards.

Discussed were options including: churches being allowed a specified distance outside of a municipality; putting them in Institutional Floating Zone; the Work Group formed by BoCC to discuss; calling Churches "Private Institutions" vs. "Place of Worship"; meeting criteria such as safe access, road size & setbacks; well & septic.

Commissioner White commented that dollars should not be the only concern and commented on a study he had done (independently – outside his realm of FcPc) regarding the drop in property prices over the last five years - 5 to 10 acres (40% drop), 10 to 25 acres (25% drop), and 25 to 50 acres (38% drop) and over 50 (dropped). He noted that the number of sales has also gone down 64%.

LM - Commented he agreed that in Ag zoned areas prices have gone down but this was not the case in properties zoned with W&S.

PM - Questioned "Where are the gaps?" trying to gain understanding of existing regulations and significant gaps in issues.

Commissioner Brown suggested depicting three (or more, as needed) standard sized churches and there potential/wanted locations could help with the evaluation. He expressed his opinion that the issue was the size of the churches in correlation to their location – and that coming to an agreement on the relationship of the two is what needed to be reached. This would allow evaluation of W&S and traffic-flow - both to and from the city. He felt that everything had a size for it location and aligning the two was the objective.

PM – Proposed and discussed his church as a case study.

JL - Commented on the "time factor" struggle for both small and large churches to deal with these restrictions. She also took offense to and questioned the 'contributing to sprawl' factor someone earlier had noted.

Commissioner White commented that this was a political decision and expressed his reasoning. He stated he felt that a church was a community center. He went on to note he did not want to see churches in a PPA area.

Chair Forrence stated that it was not the large churches themselves but where they were located – and that it was not fair to not judge them on their impact, as would be done with a Hotel.

Commissioner Brown questioned if there were threshold numbers for churches (A, B, C range) and the activities associated with the varying sizes - how many extra days of activity would be used per size of church.

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JM – Noted that this was a very hard thing to pin down as it varied by church and was not standardized.

Commissioner Brown expressed that they needed to give them something - the impact based on size – for them to go on.

JM – Expressed concern regarding time, costs and emotional factors involved: there were a number of churches in Frederick that were located in land banked land, next to a growth limit line; the time-frame all ready required for the study period of a site plan was long - 5 to 8 year process; and the associated costs (review of roads, setbacks, & health department requirements) were high.

Commissioner White brought up the grandfathering idea. Various ideas were discussed.

COMMISSIONER WOLFE LEFT THE MEETING AT 1:50 PM.

JL – Questioned proximity to growth area lines for a church - maintaining and brought issue that churches were different than hotels and that she realized this was just a dialog between the groups.

PM - Tired to establish a group consensus to develop a common ground to connect size and location; he expressed concern for churches not in this sector and how they would be impacted. The development of the “Sector Map” (why a particular size is/is not appropriate) brought up by Commissioner Brown was discussed. Also discussed were: APFO and how they affected this; providing (on a single map) eventual sewer service areas & status of various road sizes in various areas; Deputy Director Depo expressed that this could be supplied if it was information they already had and did not involve creating new; Commissioner Brown offered to draw the map being discussed.

Senior County Attorney Chomel added the reminder that this was dealing with “Places of Assembly” and cautioned to view the broader impact as opposed to treating Churches differently from other institutions and other potential violation including “equal protection clause.”

JM - Questioned the Institutional Floating Zone discussions/efforts they had gone through?

The emotional impact (community and congregation) of further changes and religious nature of this effort was discussed.

Ashley Mancinelli – added a reminder to FcPc, *due to their expressed concern regarding the additional uses that a Place-of-Worship or Institutional use would bring*, about the rewrite done on the Ag/RC Zoning Ordinance and what was permitted. She noted that only Places-of-Worship were required to submit all of their accessory-uses to the Zoning Administrator when they submit a site plan, so FcPc did have that as a tool to regulate.

There was a consensus to continue discussions.

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COMMISSIONER BROWN LEFT PRIOR TO START SECOND SESSION

b. Frederick County Planning Commission workshop to discuss the Planning Commission’s Rules of Procedures and potential amendments. (Mark Depo)

Chair Forrence expressed her attraction to Montgomery County’s Rules of Procedure and with the limits and other issues she had with the current Rules with Frederick’s (board member conversation regarding pending applications – ex parte communication). She highlighted other areas she liked.

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Problems with Frederick's current rules were discussed including new documents being presented at FcPc meetings that were not getting to members or to Staff.

Deputy Director Depo stated how they had adapted the current process based on direction from FcPc. He also argued that staff had requested the use of a Continuance when new material was submitted. Prohibiting new material being distributed was questioned. County Attorney Mitchell noted that individuals could not be prohibited from handing out additional material at the time of discussion. Commission White cautioned of a phil-buster effect that could happen if a continuance was enforced.

Commission Floyd questioned the tolerance for FcPc members doing research. Discussions centered on decisions needing to be made on the evidence presented at the meeting into record; the legitimacy of information presented by members was questioned; it was noted that FcPc members were being appointed, in part, based on their personal knowledge, experience, skill, and training; applicant right to respond to adverse information presented; and the limits of FcPc power;

Deputy Director Depo brought up the need for a "Resolution of Decision" including denials.

Chair Forrence inquired for reasons other FcPc members were opposing issues with Montgomery County's Rules Procedures. It was noted that Montgomery County was not the same type of governmental system as Frederick. Director Soter noted that Frederick County's Rules of Procedure were updated / effective as of January 1, 2006 and adopted October 9th.

Also discussed were: handling of exhibits; outside communication; public hearing guidelines; and increasing the number of items defined; items to be reviewed and rewritten by staff included:

1. Exhibits
2. Outside communication (Page 5, chapter 3 – Conflicts of interest)
3. Public Hearing Guidelines (Page 6, chapter 4 – Rules of Procedure for Public Hearings)
4. Definitions (increasing the number of items defined)
5. Reconsideration of Resolutions - Expanding
6. Written resolution (decisions – specifically stated rational of members votes)

Deputy Director brought up LOU's and resolution and the details added to BOA decisions - what information was recorded.

Audrey Wolfe returned 3:05

Commissioner White continued the discussion of recording the rational of every member's vote. Senior County Attorney Chomel, County Attorney Mitchell, Director Soter and Deputy Director Depo highlighted common agreement, opposition, and benefits of recording (ability to be used by other boards when able to specifically state). Deputy Director Depo agreed to develop and comeback with examples from Montgomery County's resolutions to have FcPc review.

Director Soter noted Howard County Rules – Decision & Order and Conduct at a Board Meeting and questioning any witnesses.

Other areas to be reviewed for change included: recognized organizations; when members were appointed (July rather than September); re-wording the language regarding BoCC liaison's voting rights; when meetings were to be held; "conduct of members" during and outside of meeting (prohibit texting, use of cell phone or laptops during the meeting); written notice being given to adjacent property owners "impacted"; ~~(6.4) individuals must appear on their own behalf and may not be represented by an agent or an attorney. County Attorney Mitchell counseled that you had to allow this as a matter of "due~~

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process". Adjusting time-limits given to various groups in different types of hearings was also discussed.

County Attorney Mitchell asked that 6.1 be clarified "vary the entire rules of procedure by 2/3 vote" conflicted with end of statement "unanimous vote".

Deputy Director Depo stated that together with staff they would highlight and blend the Rules of Procedures from neighboring jurisdictions, as discussed today, with those of Frederick County's and come back to FcPc with a written alternative.

*** ADJOURNED MEETING AT 4:00 ***

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Respectfully Submitted,

Catherine Forrence, Chair

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